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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,607	09/10/2001	Robert Sesek	10012562-1	8270

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Intellectual Property Administration  
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EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/954,607

Applicant(s)

SESEK ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-14 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-14 and 17-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. The amendment filed on 11/02/04 has been entered. Claims 7, 8, 15 and 16 are canceled and claims 1-14 and 17-26 are now pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(a) as being anticipated by Kelly Barron, Logistics in Brown (1997 driver strike helped refocus and revitalize United Parcel Service), Forbes, January, 10, 2000, pg 78.

Barron teaches a method for delivering goods including the steps of transporting the goods to a specified location (Since UPS began shuttling parcels from Seattle department stores with a Model T Ford and a few motorcycles in the early 1900's ... shipping need of a nation flowering with eat-and-sleep entrepreneurs); upon delivery, acquiring, from a positioning service, a physical location of the goods (UPS used to be a trucking company with technology and now it's a technology company with trucks); and recording the physical location to verify that the goods have in fact been delivered to the specified location (those seemingly untechnical UPS drivers ...DIAD... the information is relayed through the network), a method wherein the act of recording comprises posting the physical location to a tracking service (UPS can electronically track ... do for the shipper. ... Through a UPS arrangement with 3Com. ...Directs

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him to the nearest dropoff. ... Those seemingly untechnical UPS drivers ...DIAD... the information is relayed through the network), a method further comprising: generating a ticket containing information relating to the goods (customers are catching on. The majority now uses UPS software or the net to print shipping labels); upon delivery reading the ticket (Those seemingly untechnical UPS drivers ... DIAD ... the information is relayed through the network); and associating the recorded physical location of the goods with the ticket information (customers are catching on. The majority now uses UPS software or the net to print shipping labels. Those seemingly untechnical UPS drivers ... DIAD ... the information is relayed through the network. ... The company receives ... organizes worldwide warehousing). All of the operations occur via a computerized system and hence would be a computer program product having machine readable instructions.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5, 7, 8, and 13-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly Barron, Logistics in Brown (1997 driver strike helped refocus and revitalize United Parcel Service), Forbes, January, 10, 2000, pg 78 in view of Desai (5,319,374) and further in view of Murphy (5,917,434).

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The same rejection to claims 1-3 and 9-11 applies. Barron does not disclose identifying and recording a universal time but Murphy discloses the utilization of GPS time signals to precisely compute elapsed time (abs., fig. 7), a GPS/ taximeter system well suited to have a communications link for integration into tracking station (col. 9, lines 44-52) and that GPS time signals provide incontrovertible accurate signals for computing time (col. 10, lines 27-30).

Desai discloses that GPS is part of a satellite-based navigation system developed by the US dept. of Defense, theoretically as many as eight GPS satellites will be visible at one time from most points on the Earth's surface, and that each satellite carries a cesium or rubidium atomic clock to provide timing information signals transmitted by the satellites, i.e. set of Universal Time (col. 13, lines 8-29), a system wherein a clock is made upon the satellites by a GPS system utilizing timing it receives the Universal Time and converts is to real local time (cols. 9-10), wherein by utilizing the satellite time for the timing system, you receive a more accurate time within a range as low as 2-7 milliseconds. However, Desai does not disclose that satellite time will be unavailable when GPS is unavailable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have identified and recorded a universal time to provide a delivery time reference (i.e. local real time), in association with the delivery, in the UPS system for the explicit reasons cited above.

6. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly Barron, Logistics in Brown (1997 driver strike helped refocus and revitalize United Parcel Service), Forbes, January, 10, 2000, pg 78.

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The same rejection to claims 1-3 and 9-11 applies. Barron further discloses that UPS came to a realization after a strike that marvelous as they were in delivering 13 million packages every business day were not enough to compete in an industry that was transitional into global, knowledge-based logistics business and that they had to make a huge technology commitment. Barron discloses that DIAD can receive messages. Barron does not disclose comparing the recorded physical location with the specified location and issuing an alert indicating discrepancies but it would have been obvious to one of ordinary skill in the art to have utilized the positioning service's physical location and compared it with the location being scanned by the DIAD to check for and alert the delivery person about potential discrepancies for the explicit reasons set forth above.

### *Response to Arguments*

7. Applicant's arguments filed on 11/02/04 have been fully considered but they are not persuasive.

Applicant argues about the use of different references in the 102 rejection. Those references were in fact used as evidence in this case and they were really not part of the 102 rejection. In any case, the examiner has removed those references and left only the main one which is Barron. Applicant further argues that Barron does not teach certain elements of the claims. If you look at it limitation by limitations, one would be tempted to come to that conclusion but the fact remains that the concept being claimed is already covered by the UPS which provides worldwide delivery service. And as far as the motivation to modify the teachings in a certain manner, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See in re Fine, 837 USPQ2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and in re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Applicant's arguments are deemed unpersuasive; claims 1-6, 9-14, and 17-26 are finally rejected.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Laneau  
Examiner  
Art Unit 3627

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*Handwritten signature: Ronald Laneau*  
1/10/05  
Primary Examiner